

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1135
96TH GENERAL ASSEMBLY

Reported from the Committee on Jobs, Economic Development and Local Government, April 26, 2012, with recommendation that the Senate Committee Substitute do pass.

4770S.03C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 536.041 and 536.325, RSMo, and to enact in lieu thereof four new sections relating to administrative procedures and review.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 536.041 and 536.325, RSMo, are repealed and four
2 new sections enacted in lieu thereof, to be known as sections 536.032, 536.041,
3 536.175, and 536.325, to read as follows:

536.032. Upon the filing of a request by a state agency with the
2 **joint committee on administrative rules and the secretary of state**
3 **concurrently, and after publication in the Missouri Register, the**
4 **secretary of state shall have the authority to make nonsubstantive**
5 **changes to the code of state regulations to update changes in**
6 **department or division name information in response to statutory**
7 **changes or executive orders, or to changes in state agency addresses,**
8 **state agency telephone numbers, email addresses, or state agency**
9 **website addresses.**

536.041. Any person may **file a written** petition **with** an agency
2 requesting the adoption, amendment or repeal of any rule. Any agency receiving
3 such a petition or other request in writing to adopt, amend or repeal any rule
4 shall forthwith furnish a copy thereof to the joint committee on administrative
5 rules and to the commissioner of administration[, together with the action, if any,
6 taken or contemplated by the agency as a result of such petition or request, and
7 the agency's reasons therefor]. **Within sixty days after the receipt of the**
8 **petition, the agency shall submit a written response to the petitioner**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

9 and copies of the response, in electronic format, to the joint committee
10 on administrative rules and to the commissioner of administration,
11 containing its determination whether such rule should be adopted,
12 continued without change, amended, or rescinded, together with a
13 concise summary of the state agency's specific facts and findings with
14 respect to the criteria set forth in subsection 4 of section 536.175. If the
15 agency determines the rule merits adoption, amendment, or rescission,
16 it shall initiate proceedings in accordance with the applicable
17 requirements of this chapter. The joint committee may refer comments
18 or recommendations concerning such rule to the general assembly for
19 further action. Upon timely application, the joint committee on
20 administrative rules may grant, upon good cause shown, an extension
21 of time to answer a petition. A written petition submitted in
22 accordance with this section shall constitute notice for purposes of
23 subsection 9 of section 536.021.

536.175. 1. Each state agency shall periodically review all of its
2 rules according to the following review schedule:

3 (1) Rules contained in titles 1 through 6 of the code of state
4 regulations shall begin the review process no later than July 1, 2015,
5 and every five years thereafter;

6 (2) Rules contained in titles 7 through 10 of the code of state
7 regulations shall begin the review process no later than July 1, 2016,
8 and every five years thereafter;

9 (3) Rules contained in titles 11 through 14 of the code of state
10 regulations shall begin the review process no later than July 1, 2017,
11 and every five years thereafter;

12 (4) Rules contained in titles 15 through 19 of the code of state
13 regulations shall begin the review process no later than July 1, 2018,
14 and every five years thereafter; and

15 (5) Rules contained in titles 20 and higher of the code of state
16 regulations shall begin the review process no later than July 1, 2019,
17 and every five years thereafter.

18 2. The joint committee on administrative rules shall cause a
19 notification of agency review to be published in the Missouri Register
20 indicating rules being reviewed under this section and shall contain:

21 (1) Which titles of the code of state regulations will be under
22 review;

23 (2) A notice that anyone may file comments concerning the rules
24 being reviewed no later than sixty days after publication of the notice
25 in the Missouri Register;

26 (3) A notice that all comments must identify the commenter, must
27 specify the rule being commented upon, and must contain comments
28 directly associated to that rule;

29 (4) A listing of agency designee assigned to receive comments on
30 rules under review;

31 3. State agencies shall provide the joint committee on
32 administrative rules contact information for the agency designee
33 assigned to receive comments under subsection 2 of this section.

34 4. Each agency with rules being reviewed, shall prepare a report
35 containing the results of its periodic rule review. The report shall
36 consider and include the following:

37 (1) Whether the rule continues to be necessary, taking into
38 consideration the purpose, scope, and intent of the statute under which
39 the rule was adopted;

40 (2) Whether the rule is obsolete, taking into consideration the
41 length of time since the rule was modified and the degree to which
42 technology, economic conditions, or other relevant factors have
43 changed in the subject area affected by the rule;

44 (3) Whether the rule overlaps, duplicates, or conflicts with other
45 state rules, and to the extent feasible, with federal and local
46 governmental rules;

47 (4) Whether a less restrictive, more narrowly tailored, or
48 alternative rule could adequately protect the public or accomplish the
49 same statutory purpose;

50 (5) Whether the rule needs amendment or rescission to reduce
51 regulatory burdens on individuals, businesses, or political subdivisions
52 or eliminate unnecessary paperwork;

53 (6) Whether the rule incorporates a text or other material by
54 reference and, if so, whether the text or other material incorporated by
55 reference meets the requirements of section 536.031;

56 (7) For rules that affect small business, the specific public
57 purpose or interest for adopting the rules and any other reasons to
58 justify its continued existence; and

59 (8) The nature of the comments received by the agency under

60 subsection 2 of this section, a summary of which shall be attached to
61 the report as an appendix and shall include the agency's responses
62 thereto.

63 5. Each agency with rules subject to review shall cause their
64 report to be filed electronically with the joint committee on
65 administrative rules and the small business regulatory fairness board
66 no later than June thirtieth of the year after publication of agency
67 review in the Missouri Register under subsection 2 of this section. The
68 reports shall also be made available on the state agency's website. If
69 the state agency fails to file the report as required by this section for
70 any rule and has not received an extension for good cause from the
71 joint committee on administrative rules, the joint committee on
72 administrative rules shall notify the secretary of state to publish a
73 notice as soon as practicable in the Missouri Register as to which rules
74 the delinquency exists. The rule shall be void and of no further effect
75 after the first sixty legislative days of the next regular session of the
76 general assembly unless the state agency corrects the delinquency by
77 providing the required review within ninety days after
78 publication. Upon determination that the agency has complied with the
79 requirements of this section regarding any delinquency that resulted
80 in notice being published, the joint committee on administrative rules
81 shall notify the secretary of state to remove the rule from the notice of
82 rules scheduled to become null and void.

536.325. 1. [Each agency with rules that affect small business shall
2 submit by June thirteenth of each odd-numbered year a list of such rules to the
3 general assembly and the board. The agency shall also submit a report describing
4 the specific public purpose or interest for adopting the respective rules and any
5 other reasons to justify its continued existence. The general assembly may
6 subsequently take such action in response to the report as it finds appropriate.

7 2.] The board shall provide to the head of each agency a list of any rules
8 adopted by the agency that affect small business and have generated complaints
9 or concerns, including any rules that the board determines may duplicate,
10 overlap, or conflict with other rules or exceed statutory authority. Within
11 forty-five days after being notified by the board the list of rules adopted, the
12 agency shall submit a written report to the board in response to the complaints
13 or concerns. The agency shall also state whether the agency has considered the

14 continued need for the rules and the degree to which technology, economic
15 conditions, and other relevant factors may have diminished or eliminated the
16 need for maintaining the rules.

17 **[3.] 2.** The board may solicit testimony from the public at a public
18 meeting regarding any report submitted by the agency under this section **or**
19 **section 536.175.** The board shall **electronically** submit an evaluation report
20 to the governor and the general assembly regarding small business comments,
21 agency response, and public testimony on rules in this section **and the report**
22 **shall be maintained on the board's website.** The governor and the general
23 assembly may take such action in response to the report as they find appropriate.

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